

### REMARKS

Claim 1 has been amended. Claims 1-12 are pending. Applicant reserves the right to pursue the original claims and other claims in this and other applications.

Claim 1 stands objected to for informalities. Claim 1 has been amended to obviate the objection.

Claims 1-12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,243,338 ("Mine"). Applicant respectfully traverse the rejection.

An important feature of the claimed invention as recited in claim 1 is the recording unit having "a dummy data recording unit that records dummy data in [a] first region when [a] determination unit determines that the first region is unrecorded." (FIGS. 4-6). Mine is directed to a recording apparatus and a method of recording in which a finalizing process determines whether each block is recorded or unrecorded. On the other hand, the present invention is related to recording dummy data into a region immediately prior to the region where data are to be recorded. Further, in the present invention, dummy data are recorded before finalization and therefore, it is necessary to manage status of "recorded" or "unrecorded" for each ECC block by bit map.

The Office Action contends that Mine discloses "a controller that identifies the first region recorded with the dummy data as one of the unrecorded regions." But the cited portions of the reference only teaches that the recorded data is user data and that an area may not be recognized as a recorded area due to power failure. Unlike Mine, in the claimed invention, "dummy" data is recorded in the first region. For at least these reasons, the § 102(b) rejection of claim 1 should be withdrawn and the claim allowed.

Claims 2-12 depend from claim 1 or contain similar limitations as claim 1.  
Therefore, claims 2-12 should be allowable at least for the same reasons as claim 1.

In view of the above amendment, Applicant believes the pending application is  
in condition for allowance.

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Respectfully submitted,

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